

Irreplaceable Heritage:

Indiana's Legal Protection of Archaeological Sites

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Indiana has a rich and varied archaeological heritage. Investigations, including excavations, were conducted at sites as early as the 1820s, and surface collecting for artifacts has also been a popular avocational activity. In the fall of 1875, interested individuals from the State Archaeology Association of Indiana held their first annual meeting in Indianapolis. Collections of artifacts were on display, papers were read, and a field trip was conducted to the mounds in Anderson. From those humble beginnings, and other early [archaeological endeavors](#), a broader understanding of the scope and importance of the state's precontact past was formed.

Early examples of private citizens recognizing the value of protecting archaeological sites include the Bronnenbergs of Madison County. The family bought the land which is now Mounds State Park in the early to mid-1800s, helping to preserve the earthworks. The property was acquired by the State of Indiana in October 1930. Another early example of property purchased for preservation for future generations was Angel Mounds in Evansville. That site was saved due to contributions from Eli Lilly and the Indiana Historical Society (IHS). Transferred from IHS to the state of Indiana in 1946, this important site is now a National Historic Landmark managed by the Indiana State Museum and Historic Sites.

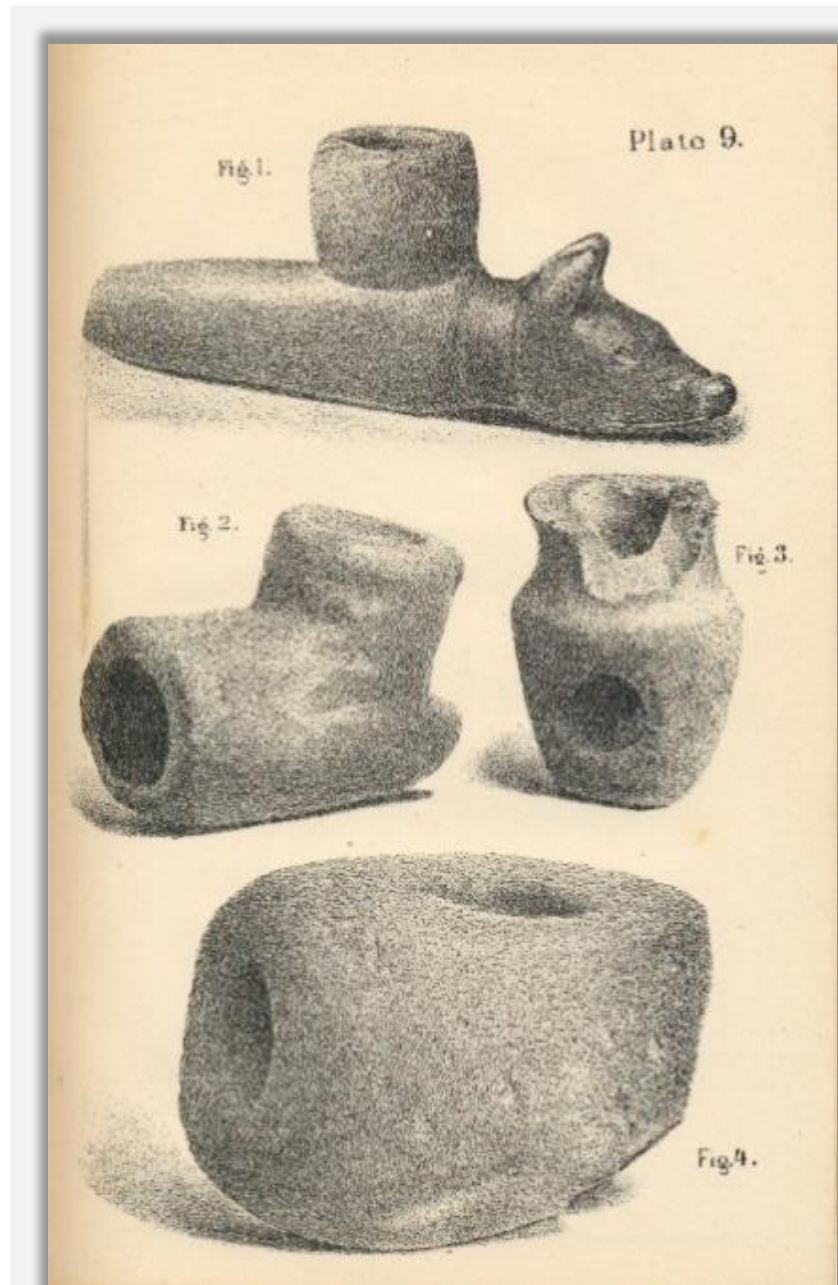


Figure 1: Artifact illustrations from State Geologist Cox's "Sixth Annual Report of the Geological Survey of Indiana," published in 1875. Image courtesy of the Indiana Geological & Water Survey, Indiana University.



Figure 2: A 1963 conceptual plan produced by Allen Organization Park & Recreation Planners for the City of Evansville proposed a golf course, ball fields, and other recreational amenities, which fortunately were not implemented at the Angel Mounds property. Image courtesy of Indiana State Museum and Historic Sites.

Unfortunately, between 1828 and the late 1980s, many archaeological sites were damaged or destroyed in Indiana due to factors such as development projects and non-scientific excavation activities. Prior to 1989, Hoosier archaeological sites found on privately owned land were not protected. For archaeological resources located on state owned or leased properties, legal protections were in place by 1977. Some laws regarding sites on federal property include the Antiquities Act of 1906, and the Archaeological Resources Protection Act (1979). In addition, the Native American Graves Protection and Repatriation Act (NAGPRA) was enacted in 1990.

In 1981, the director of the Indiana Department of Natural Resources' Division of Historic Preservation and Archaeology (DNR-DHPA) wrote his Iowa counterpart asking about details of that state's law regarding precontact and historic Native American burial sites, expressing that the conduct toward burials was a worrisome matter to both archaeologists and tribal entities in Indiana. By the late 1980s, there were instances of individuals in the Midwest who were looting (unsystematic, non-scientific, unrecorded digging for artifacts and/or human remains) on a large scale at privately owned, major Native American archaeological/burial locations. Examples included the Mount Vernon site (sometimes referred to as the GE Mound) in Posey County, Indiana and the Slack Farm site in Kentucky. These cases brought media exposure and greater public consciousness. In helping highlight the severity of the issue at the time, professional archaeologists with the Council for the Conservation of Indiana Archaeology (now the Indiana Archaeology Council) described widespread looting of archaeological resources.

A turning point came in 1989 when the state legislature amended Indiana Code (IC) 14-3-3.4 to include both human burial sites dating before January 1, 1940, and sites on privately owned land with artifacts dating before Dec. 11, 1816. This came about with the support of professional and avocational archaeologists, state officials, Native Americans, and private citizens. In the ensuing 30 years, changes and additions have been made to the law. It has been challenged in court by a private landowner; however, decisions by the Indiana Court of Appeals (1993) and Supreme Court of Indiana (1994) affirmed that the law, [IC 14-21-1](#), does apply to private property.

An amendment in 2008 resulted in an important change to the artifact date (from Dec. 11, 1816, to Dec. 31, 1870), and now even more sites are afforded protection from unauthorized ground disturbance. To dig for artifacts dating before Dec. 31, 1870, an approved plan must first be obtained from the DHPA. All archaeologists must go through the same process, which allows for the controlled, systematic recovery of artifacts and information.

If artifacts or features dating before December 31, 1870 are found accidentally, ground disturbance must stop and the discovery must be reported to the DHPA within two working days in order for a proper course of action to be decided. Any discovery of human remains should be left undisturbed and the proper authorities (law enforcement, county coroner, and the DHPA) notified as soon as possible. The [Archeology Preservation Trust Fund](#) is available to assist private landowners when artifacts, burial objects, or human remains are found accidentally and money is needed to comply with the law's requirements. Also, if a Native American burial ground is discovered, under state statute the DNR must provide notice to Indiana's Native American Indian Affairs Commission, and if applicable, NAGPRA is followed. When artifacts are discovered, they belong to the current legal landowner, unless that person assigns ownership of the materials to another party. There are penalties if someone knowingly or intentionally receives, retains, or disposes of an artifact, a burial object, or human remains in violation of state statute. When private individuals surface collected artifacts, archaeologists encourage them to do so responsibly.

Indiana has over 75,000 recorded archaeological sites (ranging from a single projectile point to complexes of mounds and earthworks), the majority of which are located on private property. A number of sites are found on state, local, or federal property, while others are now protected as part of preserves owned by entities such as The Archaeological Conservancy, the Tippecanoe County Historical Association, and the Department of Natural Resources.

The implementation of legal protections has resulted in site identification and preservation, greater collaboration regarding discoveries, less cases of looting, and the successful conviction of individuals who conducted illegal excavations and damaged places that are part of the state's heritage. The future continues to look bright for the protection of archaeological resources and for positive collaborations among those who value the importance of Indiana's cultural heritage. The progression towards state level legislation regarding archaeological resources followed a similar pattern to that in other states, but our archaeology law stands out as one of the strongest of its type in the nation.

Further Reading

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Pollack, David, Cheryl Ann Munson, and A. Gwynn Henderson

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